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Comm. Amdt. _____

Amendment No. 7 to HB3259

Head
Signature of Sponsor

AMEND Senate Bill No. 3147***House Bill No. 3259**

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 67-4-409(a), is amended by deleting the language "for state purposes only" and by substituting instead the language "for state purposes only except as provided in section 2 of this act".

SECTION 2. Tennessee Code Annotated, Title 67, Chapter 4, Part 5, is amended by adding the following language as a new, appropriately designated section:

Section _____. (a) For purposes of this section, unless the context otherwise requires:

(1) "Adequate facilities tax" means any privilege tax that is levied by a county or a municipality on engaging in the act of development with the intent of raising revenues to be used for general purposes; provided, however, that the meaning of adequate facilities tax shall not include:

(A) any impact fee that is imposed by a county or municipality;

(B) any special assessment imposed by a county under section 5-1-118 or by a municipality as authorized by law;

(C) any inspection fee or building permit fee imposed by a county or municipality acting under its police power to ensure that public safety regulations are enforced for the general welfare; or

(D) any tap fee, hook-up fee, or development fee imposed by a county or municipality to offset the cost of providing services, facilities, or other investments that benefit the property under development, provided

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that such fee can be shown to reasonably relate to the cost of providing such service, facility, or investment.

(2) "Development" means the construction, building, erection, extension, alteration, or improvement of any residential or non-residential building or structure or the addition to any such building or structure, or any part thereof, which provides or adds to the floor area.

(3) "Impact fee" means a monetary charge imposed by a county or municipal government on new development to help finance a portion of the cost of public works projects that are needed to handle the impact of growth in population and business activity. The amount of fees is determined proportionate to the specific impact of each land use on the county's or municipal government's infrastructure. Revenues collected are earmarked exclusively for projects that upgrade the deficient infrastructure.

(b) On all transfers of realty whether by deed, court deed, decree, partition deed, or other instrument evidencing transfer of any interest in real property, any county, which qualifies or has qualified for growth funding under Section 49-3-351(d) for four (4) separate years during any five (5) consecutive year period occurring after state fiscal year 1993-1994 and prior to the effective date of this act, is authorized to levy for county purposes, by resolution of its county legislative body adopted in accordance with subsection (d), a tax on the privilege of having the same recorded, which shall be levied at a rate equal to the rate of the transfer tax levied by the state under Section 67-4-409(a). The transfer tax shall be levied on any transfer of realty in the county which is

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taxable by the state, and the transfer tax shall be levied and collected in the same manner as the state transfer tax levied by Section 67-4-409(a), except as otherwise provided in this section.

(c)(1) The transfer tax authorized under this section shall only apply to that portion of the consideration for the transfer, or the value of the property, whichever is greater, of five million dollars (\$5,000,000) or less. No transfer tax shall be due or paid for any portion of such consideration or value in excess of five million dollars (\$5,000,000).

(2) Each county levying a realty transfer tax under this section is authorized to establish a program to provide tax relief to low income, elderly or disabled persons paying the realty transfer tax on transfers of residential property levied by the county. Such relief shall be implemented in a manner prescribed in the resolution levying the realty transfer tax or any amendment thereto. The resolution shall also establish the qualifications of persons eligible to receive the rebate.

(d) No resolution levying such realty transfer tax shall take effect unless it is approved by a two-thirds (2/3) vote of the county legislative body at two consecutive, regularly scheduled meetings. Any county levying a realty transfer tax pursuant to this section may amend or rescind such action by resolution of the county legislative body adopted in the same manner as the resolution imposing the tax.

(e) No county that levies a realty transfer tax under subsection (b) shall levy an adequate facilities tax.

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(f) Except as otherwise provided in this act, all tax revenue collected pursuant to this act shall be used exclusively to pay interest or principal on county or municipal debt obligations issued to fund school facilities. Notwithstanding the provisions of Section 49-3-1003, a county may enter into a memorandum of understanding with a municipality that has a municipal school system situated, in whole or in part, within such county to provide for allocating a portion of such tax revenue to the municipality to be used exclusively for the payment of interest or principal on such municipal debt obligations.

(g) If a county levies a realty transfer tax pursuant to this act, then no municipality situated, in whole or in part, within such county is authorized to levy a new adequate facilities tax on or after the effective date of this act, provided, however, that any municipality that had authority to levy an adequate facilities tax by virtue of a private act approved prior to the effective date of this act shall retain such authority, and the levy of a realty transfer tax by a county pursuant to this act shall not repeal or supersede such authority.

(h) For collecting and reporting taxes levied under this section, county registers shall be entitled to retain as commission two and one-half percent (2 1/2%) of the taxes so collected. The county register in each county that has levied the tax authorized by this section shall also be entitled to charge and receive a fee of one dollar (\$1.00) for issuing a receipt for taxes collected pursuant to this section, whether this receipt is a separate document or is included within a receipt for state taxes levied by Section 67-4-409. Such fee shall be paid when the tax receipt is issued.

SECTION 3. This act shall take effect July 1, 2000, the public welfare requiring it.

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